

ESTTA Tracking number: **ESTTA153031**

Filing date: **07/25/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Starbucks Corporation d/b/a Starbucks Coffee Company
Granted to Date of previous extension	08/01/2007
Address	2401 Utah Avenue South Seattle, WA 98134 UNITED STATES

Name	Starbucks U.S. Brands, LLC
Granted to Date of previous extension	08/01/2007
Address	2525 Starbucks Way Minden, NV 89423 UNITED STATES

Attorney information	Julia Anne Matheson Finnegan, Henderson, Farabow, Garrett and Dunner, LLP 901 New York Avenue, N.W. Washington, DC 20001 UNITED STATES docketing@finnegan.com, andrew.pittman@finnegan.com Phone:202.408.4020
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Applicant Information

Application No	78787725	Publication date	04/03/2007
Opposition Filing Date	07/25/2007	Opposition Period Ends	08/01/2007
Applicant	Nags Head Shop 1171 Duck Road Duck, NC 27949 UNITED STATES		

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Clothing, namely, tee shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2176974	Application Date	09/24/1997
Registration Date	07/28/1998	Foreign Priority Date	NONE
Word Mark	STARBUCKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1993/05/01 First Use In Commerce: 1993/05/01 T-shirts, polo shirts, sweatshirts, caps, hats, jackets, shorts and aprons		

U.S. Registration No.	2024105	Application Date	02/07/1996
Registration Date	12/17/1996	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1988/11/01 First Use In Commerce: 1988/11/01 T-shirts, polo shirts, sweatshirts, caps, hats, jackets, shorts and aprons		

U.S. Registration No.	2028943	Application Date	02/07/1996
Registration Date	01/07/1997	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1993/05/01 First Use In Commerce: 1993/05/01 T-shirts, polo shirts, sweatshirts, caps, hats, jackets, [shorts] and aprons		

U.S. Registration No.	2073104	Application Date	07/24/1995
Registration Date	06/24/1997	Foreign Priority Date	NONE
Word Mark	STARBUCKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 wholesale supply, retail outlets and mail order services featuring ground and whole bean coffee, tea, cocoa, coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk, powdered flavorings, flavoring syrups, baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same, packaged foods, sandwiches and prepared foods, chocolate and confectionery items, granola, dried fruits, spreads, juices, soft drinks, electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders, housewares, non-electric appliances and related items, namely, hand operated coffee grinders		

	and coffee mills, insulated coffee and beverage cups (made of plastics and/or ceramics), collapsible cup carriers and caddies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers, paper and non paper coffee filters, furniture, clocks, toys, books, musical recordings, T-shirts, caps, sweatshirts, jackets, aprons and other clothing items, and for restaurant, cafe and coffee house services
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U.S. Registration No.	1444549	Application Date	06/03/1985
Registration Date	06/23/1987	Foreign Priority Date	NONE
Word Mark	STARBUCKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1971/03/29 First Use In Commerce: 1971/03/29 RETAIL STORE SERVICES AND DISTRIBUTORSHIP SERVICES FOR COFFEE, TEA AND SPICES; COFFEE CAFE SERVICES		

U.S. Registration No.	1417602	Application Date	06/03/1985
Registration Date	11/18/1986	Foreign Priority Date	NONE
Word Mark	STARBUCKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1971/03/29 First Use In Commerce: 1971/03/29 COFFEE, TEA, SPICES, HERB TEA, CHOCOLATE, AND COCOA Class 031. First use: First Use: 1971/03/29 First Use In Commerce: 1971/03/29 UNPOPPED POPCORN Class 042. First use: First Use: 1971/03/29 First Use In Commerce: 1971/03/29 COFFEE BAR SERVICES, AND COFFEE DISTRIBUTION SERVICES, AND RETAIL STORE SERVICES		

U.S. Registration No.	2227835	Application Date	11/07/1997
Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		
Design Mark			
Description of Mark	The mark consists of the wording "STARBUCKS COFFEE" and the color green, which is in the nature of emerald green, PMS color 3425 (c), and it is a feature of the mark.		
Goods/Services	Class 035. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 [wholesale distributorships, retail outlets and mail order services featuring] ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies,[pastries, cakes and breads, and ready-to-make mixes of the same]; packaged foods; sandwiches and prepared foods; chocolate and confectionery		

	items;[ready-to-eat cereals]; dried fruits, [spreads]; juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares,[non-electric appliances and related items, namely, hand-operated coffee grinders and coffee mills], insulated coffee and beverage cups, [collapsible cup carriers and caddies], non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non-paper coffee filters; furniture; watches; clocks; toys; books; musical recordings;[T-shirts, caps, sweatshirts, jackets, aprons and other clothing items]; all of the foregoing services
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U.S. Registration No.	2227837	Application Date	11/07/1997
Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 [wholesale distributorships, retail outlets and mail order services featuring] ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies,[pastries, cakes and breads], and [ready-to-make mixes of the same]; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; [ready-to-eat cereals]; dried fruits,[spreads]; juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares,[non-electric appliances and related items, namely, hand-operated coffee grinders and coffee mills], insulated coffee and beverage cups, [collapsible cup carriers and caddies] non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non-paper coffee filters; furniture; watches; clocks; toys; books; musical recordings; [T-shirts, caps, sweatshirts, jackets, aprons and other clothing items]; all of the foregoing services		

U.S. Registration No.	2325182	Application Date	11/07/1997
Registration Date	03/07/2000	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		
Design Mark			
Description of Mark	The mark consists of the wording "STARBUCKS COFFEE" in a circular seal with two stars, the color green which is in the nature of emerald green, PMS color 3425(c), and design of a siren (a two-tailed mermaid) wearing a crown.		
Goods/Services	Class 035. First use: First Use: 1992/10/20 First Use In Commerce: 1992/10/20 wholesale distributorships, retail outlets and mail order services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; [powdered milk;] powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; ready-to-eat cereals; dried fruits, [spreads;] juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and		

	coffee grinders; housewares, non-electric appliances and related items, namely, hand-operated coffee grinders and coffee mills, insulated coffee and beverage cups, [collapsible cup carriers] and candies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups, mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non-paper coffee filters; furniture; [watches; clocks;] toys; books; musical recordings; T-shirts, caps, sweatshirts, jackets, aprons and other clothing items
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U.S. Registration No.	2039849	Application Date	07/24/1995
Registration Date	02/25/1997	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 042. First use: First Use: 1971/03/29 First Use In Commerce: 1971/03/29 [wholesale supply, retail outlets and mail order services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; granola; dried fruits; spreads; juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, hand operated coffee grinders and coffee mills, insulated coffee and beverage cups (made of plastics and/or ceramics), collapsible cup carriers and caddies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non paper coffee filters; furniture; clocks; toys; books; musical recordings; T-shirts, caps, sweatshirts, jackets, aprons and other clothing items; and for restaurant, cafe and coffee house services] *</p> <p>Wholesale supply and retail outlet services featuring ground and whole bean coffee; tea; cocoa; coffee and express beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavoring; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads; packaged food; sandwiches and prepared foods; chocolate and confectionery items; granola; dried fruits; juices; soft drinks; electric appliances, namely kettles, coffee makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, insulated coffee and beverage cups (made of plastics and/or ceramics), non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non paper coffee filters; toys; books; musical recordings; t-shirts, caps, sweatshirts, jackets, aprons and other clothing items; wholesale supply services featuring furniture; mail order services featuring ground and whole bean coffee and tea; and restaurant, cafe and coffee house services *</p>		

U.S. Registration No.	2035005	Application Date	07/24/1995
Registration Date	02/04/1997	Foreign Priority Date	NONE
Word Mark	STARBUCKS COFFEE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 wholesale supply [, retail outlets and mail order] services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and [ready-to-make mixes of the same;] packaged foods; sandwiches and prepared foods; chocolate and confectionery items; granola; dried fruits; [spreads;] juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, [hand operated coffee grinders and coffee mills ,] insulated coffee and beverage cups (made of plastics and/or ceramics), [collapsible cup carriers and caddies,] non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non paper coffee filters; furniture; clocks; toys; books; musical recordings; [T-shirts, caps, sweatshirts, jackets, aprons and other clothing items;] and for restaurant, cafe and coffee house services

Attachments	75061642#TMSN.gif (1 page)(bytes) 73540824#TMSN.gif (1 page)(bytes) 75386840#TMSN.gif (1 page)(bytes) 75386842#TMSN.gif (1 page)(bytes) 75386495#TMSN.gif (1 page)(bytes) 74705315#TMSN.gif (1 page)(bytes) Notice of Opposition (STARDUCKS).PDF (9 pages)(539544 bytes)
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Signature	/Julia Anne Matheson/
Name	Julia Anne Matheson
Date	07/25/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

STARBUCKS U.S. BRANDS, LLC and)	
STARBUCKS CORPORATION DBA)	
STARBUCKS COFFEE COMPANY,)	
)	
Opposers)	
)	Opposition No. _____
v.)	
)	Serial No. 78/787,725
NAGS HEAD SHOP,)	Filed: January 9, 2005
)	Published: April 3, 2007
Applicant.)	Mark: STARDUCKS
_____)	

NOTICE OF OPPOSITION

Starbucks U.S. Brands, LLC, a limited liability company of the State of Nevada, having a principal place of business at 2525 Starbucks Way, Minden, Nevada 89423, and Starbucks Corporation d/b/a Starbucks Coffee Company, a corporation of the State of Washington, having a principal place of business at 2401 Utah Avenue South, Seattle, Washington 98134 (collectively referred to as "Opposers"), believe that they are being, and will be damaged by the registration of the mark STARDUCKS shown in Application Serial No. 78787725, and hereby oppose the same.

As grounds for opposition, Opposers allege as follows, upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to other matters:

Opposers STARBUCKS Name and Marks

1. For over a quarter century, Opposers have been in the business of offering cafe, restaurant, and coffee-house services, and retail store services store

services featuring coffee, tea, and coffee- and tea-based beverages. Over the years, Opposers have been producing, marketing, distributing, and selling an ever-expanding range of products and services including, among other things, coffee, candy and confectionery products, bakery products, mugs and glassware, coffee-related accessories and equipment, toys, print materials such as newsletters and magazines, music recordings, gift items, stored value cards, and apparel, all under the STARBUCKS mark.

2. Sales of STARBUCKS products and services have amounted to \$6.4 billion dollars of revenues for 2005 alone. By the conclusion of 2005, Opposers operated at more than 10,500 locations worldwide.

3. Opposers, by and through their related companies, have used the STARBUCKS trade name in commerce since at least as early as 1971.

4. Opposer Starbucks U.S. Brands, LLC is the owner of, among others, the following United States trademark registrations for the mark STARBUCKS and STARBUCKS-formative marks (collectively the "Starbucks Marks"):

Mark	Reg. No./Reg. Date	Goods
STARBUCKS	2,176,974 July 28, 1998 Section 8/15	T-shirts, polo shirts, sweatshirts, caps, hats, jackets, shorts, and aprons in Class 25
STARBUCKS COFFEE	2,024,105 December 17, 1996 Section 8/15	T-shirts, polo shirts, sweatshirts, caps, hats, jackets, shorts and aprons in Class 25
STARBUCKS COFFEE & Design	2,028,943 January 7, 1997 Section 8/15; Section 8/9 filed 12/27/2006	T-shirts, polo shirts, sweatshirts, caps, hats, jackets, shorts, and aprons in Class 25
STARBUCKS	2,073,104 June 24, 1997	Wholesale supply, retail outlets and mail order services featuring ground and whole bean coffee, tea, cocoa, coffee and espresso

Mark	Reg. No./Reg. Date	Goods
		beverages and beverages made with a base of coffee, espresso, and/or milk, powdered flavorings, flavoring syrups, baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same, packaged foods, sandwiches and prepared foods, chocolate and confectionery items, granola, dried fruits, spreads, juices, soft drinks, electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders, housewares, non-electric appliances and related items, namely, hand operated coffee grinders and coffee mills, insulated coffee and beverage cups (made of plastics and/or ceramics), collapsible cup carriers and caddies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers, paper and non paper coffee filters, furniture, clocks, toys, books, musical recordings, <i>T-shirts, caps, sweatshirts, jackets, aprons and other clothing items</i> , and for restaurant, cafe and coffee house services in Class 42
STARBUCKS	1,444,549 June 23, 1987	Retail store services and distributorship services for coffee, tea, and spices, coffee café services in Class 42
STARBUCKS & Design	1,417,602 November 18, 1986	Coffee, tea, spices, herb tea, chocolate and cocoa in Class 30; coffee bar services and coffee distribution services and retail store services in Class 42
STARBUCKS COFFEE (stylized)	2,227,835 March 2, 1999	Ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, packaged foods; sandwiches and prepared foods; chocolate and confectionery items; dried fruits, juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares, insulated coffee and beverage cups, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls,

Mark	Reg. No./Reg. Date	Goods
		trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non-paper coffee filters; furniture; watches; clocks; toys; books; musical recordings; all of the foregoing services in Class 35
STARBUCKS COFFEE (stylized)	2,227,837 March 2, 1999	Wholesale distributorships, retail outlets and mail order services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; ready-to-eat cereals; dried fruits, spreads; juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, hand-operated coffee grinders and coffee mills, insulated coffee and beverage cups, collapsible cup carriers and candies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups, mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non-paper coffee filters; furniture; watches; clocks; toys; books; musical recordings; <i>T-shirts; caps; sweatshirts; jackets; aprons, and other clothing items</i> ; all of the foregoing services in Class 35
STARBUCKS COFFEE & Design	2,325,182 March 7, 2000	Wholesale distributorships, retail outlets and mail order services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; ready-to-eat cereals; dried fruits, spreads; juices; soft drinks; electric appliances, namely, kettles, coffee

Mark	Reg. No./Reg. Date	Goods
		makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, hand-operated coffee grinders and coffee mills, insulated coffee and beverage cups, collapsible cup carriers and caddies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups, mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non-paper coffee filters; furniture; watches; clocks; toys; books; musical recordings; <i>T-shirts; caps; sweatshirts; jackets; aprons, and other clothing items</i> in Class 35
STARBUCKS COFFEE and Design	2,039,849 February 25, 1997	Wholesale supply, retail outlets and mail order services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; granola; dried fruits; spreads; juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, hand operated coffee grinders and coffee mills, insulated coffee and beverage cups (made of plastics and/or ceramics), collapsible cup carriers and caddies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non paper coffee filters; furniture; clocks; toys; books; musical recordings; <i>T-shirts, caps, sweatshirts, jackets, aprons and other clothing items</i> ; and for restaurant, cafe and coffee house services in Class 42
STARBUCKS COFFEE (Stylized)	2,035,005 February 4, 1997	Wholesale supply, retail outlets and mail order services featuring ground and whole bean coffee; tea; cocoa; coffee and espresso

Mark	Reg. No./Reg. Date	Goods
		beverages and beverages made with a base of coffee, espresso, and/or milk; powdered flavorings; flavoring syrups; baked goods, including muffins, scones, biscuits, cookies, pastries, cakes and breads, and ready-to-make mixes of the same; packaged foods; sandwiches and prepared foods; chocolate and confectionery items; granola; dried fruits; spreads; juices; soft drinks; electric appliances, namely, kettles, coffee makers, espresso makers and coffee grinders; housewares, non-electric appliances and related items, namely, hand operated coffee grinders and coffee mills, insulated coffee and beverage cups (made of plastics and/or ceramics), collapsible cup carriers and caddies, non-paper coasters, insulated vacuum bottles, coffee cups, tea cups and mugs, glassware, dishes, plates and bowls, trivets, storage canisters, non-electric drip coffee makers and non-electric plunger-style coffee makers; paper and non paper coffee filters; furniture; clocks; toys; books; musical recordings; <i>T-shirts, caps, sweatshirts, jackets, aprons and other clothing items</i> ; and for restaurant, cafe and coffee house services in Class 42

5. The foregoing registrations are valid and subsisting and constitute *prima facie* evidence of the validity of the marks and registrations, of Opposers' ownership of and exclusive right to use the marks in commerce, and provide constructive notice of ownership thereof by Opposers.

6. As a result of Opposers' extensive sales, promotion, advertising, and commercial success, Opposers' STARBUCKS marks have achieved such widespread public recognition that these marks have become among the best known and most famous trademarks in the United States.

Applicant and its STARBUCKS Application

7. Nags Head Shop ("Applicant"), with an address at 1171 Duck Road, Duck, North Carolina 27949 is named as the current owner of Application Serial No. 78787725 (the "Application"). That Application was filed on January 9, 2006 under Section 1(b), 15 U.S.C. § 1051(b), and seeks registration of the mark STARBUCKS for "clothing, namely T-shirts" in Class 25.

COUNT I: LIKELIHOOD OF CONFUSION

8. Opposers repeat and reallege each and every allegation set forth in paragraphs 1 through 7.

9. Opposers have continuously used the STARBUCKS marks and trade name in commerce since long prior to the January 9, 2006 filing date of Applicant's ITU Application. Opposers' pleaded Registrations were also filed and issued well prior to the January 9, 2006 filing date of Application Serial No. 78787725.

10. Applicant seeks to register the mark STARBUCKS in connection with goods that are identical to and closely-related to those of Opposers, and that fall within the same channels of trade of Opposers' goods, including retail stores and convenience stores that offer and sell Opposers' goods.

11. Applicant's STARBUCKS mark is clearly intended to be a slight variation of STARBUCKS trade name and trademarks, differing by only a single letter in the middle of the mark, and thus demonstrates a willful intent to trade upon the commercial magnetism and goodwill associated with Opposers' famous and valuable name and marks.

12. Applicant's STARBUCKS mark so resembles Opposers' STARBUCKS trade name and STARBUCKS Marks in sound, appearance, and overall commercial impression as to be likely, when applied to the parties' respective products and services, to cause confusion, or to cause mistake, or to deceive under Section 2(d), 15 U.S.C. § 1052(d).

COUNT II: DILUTION

13. Opposers repeat and reallege each and every allegation set forth in paragraphs 1 through 12.

14. Opposers' STARBUCKS Marks and trade name are distinctive and became famous well prior to Applicant's January 9, 2006 filing date, and any date of first use that may be alleged by Applicant.

15. Applicant's mark STARBUCKS so closely resembles Opposers' distinctive and famous STARBUCKS Marks and trade name that it is likely to dilute and will dilute the distinctive quality of Opposers' trade name and marks in violation of Section 43(c), 15 U.S.C. § 1125(c).

WHEREFORE, Opposers believe that they are being, and will be damaged by the registration of the mark shown in Application Serial No. 78787725 and request that the opposition be sustained, and that registration to Applicant be refused.

Any deficiency in the fee should be charged to our Deposit Account No. 06-0916.

Respectfully Submitted,

Dated: July 25, 2007

By: 

Julia Anne Matheson

Linda K. McLeod

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Attorneys for Opposers

STARBUCKS U.S. BRANDS, LLC and
STARBUCKS CORPORATION D/B/A
STARBUCKS COFFEE COMPANY